

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated December 16, 2011 which found that the Appellant was ineligible for further income assistance benefits due to his non-compliance with his employment plan as required by section 9(1) of the Employment Assistance Act ("EAA"). Specifically, the Ministry found that the Appellant failed to attend workshops and appointments with the contractor as required by the employment plan, that he failed to demonstrate a reasonable effort to comply with the conditions of the employment plan and that he failed to provide proof that he ceased to participate in the employment program due to a medical reason as required by section 9(4) of the EAA.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The evidence before the Ministry at the time of the Reconsideration Decision consisted of:

1. The Appellant's employment plan dated July 19, 2011; and
2. The Appellant's Request for Reconsideration date stamped as received by the Ministry on November 29, 2011.

The Ministry relied on the Reconsideration Decision. The Appellant submitted a letter dated January 12, 2012 that was written by a family friend as well as a letter dated January 12, 2012 from his physician. The Panel was satisfied that both of these letters constituted additional evidence that was not before the Ministry at the time of reconsideration.

The January 12, 2012 letter from the Appellant's family physician indicates that the Appellant was seen at a medical clinic and has been known to suffer from anxiety and depression. The physician goes on to say that the Appellant had previously been treated for these conditions with medication and that he would now restart his medication. The question of the Appellant's medical conditions was raised by the Appellant in his Request for Reconsideration. Therefore, the Panel finds that this evidence is in support of the information and records that were before the minister when the decision being appealed was made and as such, the Panel finds this letter to be admissible pursuant to section 22(4) of the Employment and Assistance Act.

The January 12, 2012 letter from the Appellant's family friend indicates that the Appellant has been homeless and suffering from anxiety, depression and an addiction to alcohol. The letter further states that the Appellant is seeking treatment for these conditions. The writer concludes by stating that the Appellant requires food, shelter and medical assistance to meet his potential. The question of the Appellant's medical conditions was raised by the Appellant in his Request for Reconsideration. Therefore, the Panel finds that this evidence is in support of the information and records that were before the minister when the decision being appealed was made and as such, the Panel finds this letter to be admissible pursuant to section 22(4) of the Employment and Assistance Act.

The Appellant has been in receipt of income assistance as a single employable person since October 2009. The Appellant signed an employment plan on July 19, 2011 which covers the period of July 19, 2011 through May 9, 2013. On page 1 of the employment plan under the heading "Required Activities/referral(s)", it states as follows:

"Attend regularly as specified by the community assistance program service provider."

"Participate fully and to the best of my ability in the program."

"Notify the service provider immediately if, for any reason, I am unable to attend."

"Attend review appointments as required in my employment plan/voluntary participation plan with the Ministry caseworker."

"Attend intake on 12:30 2011 Jul 22 – Friday"

At page 2 of the employment plan under the heading "Compliance with Employment Plan and Actions for Non-Compliance" it says:

"To be eligible for assistance, each applicant or recipient in the family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate or b) ceases, except for medical reasons, to participate in the program."

In the Reconsideration Decision the Ministry states that the Appellant's initial appointment with a community assistance program service provider ("the Service Provider") was July 22, 2011 but that the Appellant missed three scheduled appointments before he attended an assessment on August 5, 2011. The Appellant missed an appointment during the week of August 30, 2011 and was late for his appointment on September 6, 2011. The Appellant next missed appointments with the Service Provider on September 16, 28 and October 5, 2011. The Appellant attended a meeting with the Service Provider on October 11, 2011 but then missed appointments on October 18, 2011, October 27, 2011 and November 3 and 7, 2011. The Appellant was reminded by a counselor with the Service Provider that participation in the employment program was mandatory to maintain eligibility for income assistance and the Appellant subsequently missed appointments on November 15 and 23, 2011 and the Appellant did not advise the service provider that he was not able to attend at which time the Appellant was advised by the Ministry that he was ineligible for further income assistance due to his failure to comply with the conditions of his employment plan.

In the Request for Reconsideration, the Appellant states that he has been fighting a drinking problem and that he has also suffered from associated medical conditions including seizures, anxiety and depression and that he has begun taking medication and seeing a counselor.

In the Notice of Appeal, the Appellant states that he suffers from anxiety and depression as well as addiction problems. He goes on to state that he has been seeing an addiction counselor and attending group counseling. He says that as he has now begun taking medication as referenced in the January 12, 2012 letter prepared by his physician, he will be able to comply with his employment plan.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's Reconsideration Decision which found that the Appellant was ineligible for further income assistance benefits due to his non-compliance with his employment plan as required by section 9(1) of the Employment Assistance Act ("EAA"). Specifically, the Ministry found that the Appellant failed to attend workshops and appointments with the contractor as required by the employment plan, that he failed to demonstrate a reasonable effort to comply with the conditions of the employment plan and that he failed to provide proof that he ceased to participate in the employment program due to a medical reason as required by section 9(4) of the EAA.

Section 9 of the EAA provides as follows:

9 (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must

- (a) enter into an employment plan, and
- (b) comply with the conditions in the employment plan.

(2) A dependent youth, when required to do so by the minister, must

- (a) enter into an employment plan, and
- (b) comply with the conditions in the employment plan.

(3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to

- (a) find employment, or
- (b) become more employable.

(4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person

- (a) fails to demonstrate reasonable efforts to participate in the program, or
- (b) ceases, except for medical reasons, to participate in the program.

The Ministry's position is that the Appellant entered into an employment plan but did not comply with its conditions insofar as he did not demonstrate reasonable efforts to participate in the program or provide evidence that he had a medical condition that precluded him from participating in the program.

The Appellant in his Request for Reconsideration says that he has suffered from an alcohol addiction, anxiety and depression and that as he is now taking his medication, he will be able to comply with his employment plan.

The Appellant's employment plan includes a condition that he participate in a specific employment related program and that he demonstrate reasonable efforts to participate in the program. In the present case, over the course of four months, the Appellant missed 13 of 16 appointments with the Service Provider including the initial intake appointment. The panel finds that the Appellant did not dispute that he did not attend the appointments with the service provider nor that he did not advise the service provider that he was not able to attend. The Panel finds that in view of the facts and the conditions of the Appellant's employment plan, the Ministry reasonably determined that the Appellant did not comply with the terms of his employment plan as required by section 9(1)(b) of the EAA insofar as he failed to demonstrate reasonable efforts to participate in the program as required by section 9(4)(a) of the EAA.

The Appellant submits that he is now taking medication to treat his anxiety and depression and that he is

seeking counseling to address his alcohol addiction. The letter from his physician indicates that he is to re-start his anxiety and depression medication. The letter from the Appellant's family friend notes he is now seeking medical treatment and support for his medical conditions. While the evidence does support the Appellant's contention that he has resumed taking medication and that he is pursuing counseling and support, the Panel finds that the evidence does not demonstrate that the Appellant had a medical condition which caused him to cease participating in the employment program as contemplated by section 9(4)(b) of the EAA. Therefore, the Panel finds that the Ministry's determination that the Appellant did not cease to participate in the employment program due to medical reasons was reasonable.

The Panel finds that the Ministry's Reconsideration Decision was reasonably supported by the evidence and confirms the decision.